

was surprised and a little bit shocked to learn this, but he did not fear that DBI had done a terrible wrong. He knew that DBI had made representations as to (1) the number of minority hires in the License Period (in the Opposition) and (2) the total number of hires in the Reporting Year (in the Renewal Applications and the Opposition) and that the FCC had asked for Reporting Year hires in the March 15 Letter. At some point in his conversations with Ms. Marshall Mr. Bramlett asked her by way of clarification whether the FCC wanted information beyond the Reporting Year and she said yes. Prior to December 1991, the FCC had not requested information for the entire License Period and, until his conversations with Ms. Marshall in December, Mr. Bramlett was not aware that DBI had made representations about the total number of hires. Once he learned the FCC wanted such information, he did not dwell on what had been represented, nor did he tell Ms. Marshall at this time or any time prior to the release of the HDO that he had never intended to make a representation as to the total number of hires during the License Period. Once he understood what the FCC wanted he directed his attention to gathering that information. (DBI Ex. 1, pp. 20-21; Tr. 579-582, 589-591.)

72. After the holidays in late December, 1991, or early January, 1992, Mr. Bramlett and his wife gathered, pursuant to Ms. Marshall's instructions and based solely upon their recollections, hiring and recruitment information with respect to an additional 17 hires during the License Period. Mr. Bramlett's

focus in this initial search was on additional hires with respect to whom he could also recall recruitment information, such as source, number and racial breakdown of interviewees. He transmitted this information to Ms. Marshall in early January, 1992. In discussing this information with her, she asked Mr. Bramlett for the first time whether he could provide similar recruitment information for the 12 hires during the Reporting Year. Mr. Bramlett said he could try, but that it too would be based only upon recollection. He provided this information to Ms. Marshall shortly thereafter. (Id. at p. 21; Tr. 582, 672-673.)

73. After Mr. Bramlett sent the information about the 17

Payroll records for 1988 were available on the Stations' computer. Mr. Bramlett had not looked for payroll records before this time because he did not think he needed them. He had only reviewed EEO-related documents because his focus had been on recruitment and minority hiring information to deal with the discrimination charge. The payroll records contained no such information. (Id. at pp. 21-22; Tr. 681-682.) It never occurred to Mr. Bramlett and it was never suggested to him that payroll records might be useful merely to identify who worked at the Stations during the License Period in order to help trigger his recollection as to the universe of minority hires or other EEO-related information. Up until December 1991 Mr. Bramlett was not aware that the FCC wanted information about all hires during the License Period, nor was he aware that DBI had made representations with respect thereto. Mr. Bramlett's mindset was locked in on EEO-related information -- by which he meant minority hires, recruitment efforts, applicants and interviewees -- and he searched EEO records only. Ms. Marshall never told him to search for payroll records even if they did not contain EEO information. (Tr. 669-681, 684-686.)

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<sup>14</sup>/(...continued)

phones, old air conditioners and other discarded equipment thrown in but not in an organized way by any means. There was no record or inventory of its contents. It is not a place one can go to and spot what one is looking for without stepping over and around the various items stored there and going through boxes to see what they contain. (Id. at p. 22; DBI Exs. 12-18.)

7. The January 2, 1992 Letter and DBI's Response.

74. By letter dated January 2, 1992, from Mr. Wolfe to Mr. Bramlett (the "January 2 Letter"), Mr. Wolfe summarized the prior communications between the FCC and DBI through the October 15

her that payroll records had been located which he believed could clarify the total number of hires during the License Period. Ms. Marshall then spoke with Mr. Van Horn, called Mr. Bramlett back and directed him to review the records and provide her with accurate and complete hiring information as soon as possible for submission to the FCC. (Id. at p. 23.) Ms. Marshall then called Ms. Cooper and requested an extension of time within which to respond to the January 2 Letter. It was agreed that the response would be filed by January 13. (DBI Ex. 2, p. 14.) In the interim, Mr. and Mrs. Bramlett reviewed the payroll records. Midday on Friday, January 10, 1992, Mr. Bramlett telecopied to Ms. Marshall information with respect to the hiring of 83 employees and 57 non-employees. (Id. at p. 14; DBI Ex. 1, p. 23; DBI Ex. 3, pp. 21-22; DBI Ex. 4, pp. 68-69.)

76. At some point after the discovery of the payroll records and before the filing of DBI's response to the January 2 Letter, Mr. Bramlett and Mr. Van Horn spoke by telephone. Mr. Van Horn told Mr. Bramlett that the disclosure of the discovery of payroll records and the existence of a substantial number of additional hires would probably have a serious negative impact on DBI. Mr. Bramlett was aware that disclosure of this information could result in the designation of the Renewal Applications for hearing. Mr. Bramlett believed, however, that if he provided the FCC with all the information they requested DBI would not have any problem. There was never any consideration given by Mr. Bramlett, Ms. Marshall or Mr. Van Horn to not disclosing the

newly discovered information. (DBI Ex. 1, pp. 23-24; DBI Ex. 2, pp. 14-15; DBI Ex. 4, pp. 60-64, 68-69; Tr. 596-598, 736-737, 757.)

77. By letter dated January 13, 1992, from Ms. Marshall to Mr. Wolfe, DBI submitted in response to the January 2 Letter, a Supplemental Report (the "Second Supplemental Report") consisting of four pages of text, attached to which were Exhibit A (titled "New Hires at Stations WHOS/WDRM During 1982 - February 1989") and Exhibit B (a Statement dated January 13, 1992 signed by Mr. Bramlett (the "January 13 Response"). (MMB Ex. 10.) The January

information the licensee was able to provide based on available documentation of recruitment efforts. The licensee has not, prior to the instant report, provided recruitment information which goes beyond that which could be verified from contemporaneous records maintained at the stations.

However, in view of the FCC's concern in its most recent letter that the stations had a greater number of new hires during the 1982 through February 1989 period than previously reported, the stations' staff has searched its collective memory

"contemporaneous records." Nor did she discuss with him to what they might refer. In her mind they were generic references to the information available to Mr. Bramlett concerning the Stations' recruitment efforts. She also did not discuss with Mr. Bramlett the explanation set forth in Footnote 3 as it pertained to the prior estimate of approximately 20 new hires. (DBI Ex. 1, pp. 23-25; DBI Ex. 2, pp. 15-17; Tr. 610.)

78. Exhibit A of the Second Supplemental Report set forth, as noted, hiring information for each year from 1982 through 1988 and for the first two months of 1989. Exhibit A also provides the following information with respect to certain non-employee hires and recruitment:

During the period 1982 through 1988, WDRM/WHOS had a total of 57 people who worked from 1 day up to 60 days as talent only and were not employees of the stations, although a certain number of these were considered part-time employees at the time of the filing of the Annual Employment Reports. It is the policy of WHOS/WDRM that any hire does not become permanent until after 60 days.

During the term set out above, the recruitment sources relied upon were Calhoun College, Radio & Records, Huntsville Times, Decatur Daily, University of Alabama, A&M



did not herself consider or discuss with Mr. Bramlett the Commission's policy concerning whether or not an individual working at a broadcast station is considered an employee. No breakdown was provided at the time of the filing of the January 13 Response as to the number of individuals within the 57 who were on probation versus those considered temporary. Exhibit A was prepared in a short period of time in order to meet the extended January 13 filing deadline. The focus of both Ms. Marshall and Mr. Bramlett was to ensure that the facts set forth therein were as accurate as possible. (DBI Ex. 1, p. 26; DBI Ex. 2, pp. 17-18.)

79. Mr. Bramlett acknowledged at hearing, after carefully reviewing Footnote 3, that the fourth sentence of that footnote implies that DBI had intended to state in earlier filings that there had been approximately 20 hires during the License Period. Mr. Bramlett did not receive a draft of the January 13 Response to review until approximately 3:30 p.m. on January 13. Given the shortness of time, he did not focus on the facts set forth in the textual portion of the Second Supplemental Report and therefore did not focus on the explanation set forth in Footnote 3. Rather, he spent most of his time between January 8 and January 13 compiling and checking over 300 pages of payroll records in order to ensure that the hiring information being filed with the FCC was accurate. (DBI Ex. 1, pp. 26-27; Tr. 605-609.)

80. Except for the contents of Exhibit A to the Second Supplemental Report, Mr. Bramlett had no idea as to the meaning



to change the number of new hires to 83 from 37 and to add Footnote 3 and the reference to the payroll lists in the final sentence. (DBI Ex. 2, p. 18.)

82. At the time the explanation set forth in Footnote 3 as to the basis for the earlier estimate of approximately 20 new hires was prepared, it reflected what Ms. Marshall believed to be the truth. When Ms. Marshall learned that there were at least 83 new hires, she never asked Mr. Bramlett point blank how he ever could have represented in the April 18 Response and the October 15 Response that there were only 20 hires. Instead, she focused on what she thought was the most important matter -- getting the new information to the Commission as quickly and accurately as possible. She assumed, without confirming her assumption with Mr. Bramlett, that the explanation provided with respect to the basis for the recruitment information -- that it had previously been based upon available documentation -- also applied to hiring information. She did not learn this was not the case until after the HDO was released. (DBI Ex. 2, pp. 18-19; Tr. 247-249.)

**8. The January 24, 1992 Letter and DBI's Response.**

83. On January 24, 1992, Ms. Cooper telephoned Ms. Marshall regarding the January 13 Response. This conversation was memorialized by a follow-up undated letter to Mr. Bramlett from

Mr. Wolfe (the "January 24 Letter")<sup>16/</sup> requesting in substance the following:

- (1) With respect to the 83 hires and the 57 "non-employees" listed in Exhibit A to the Second Supplemental Report, state whether the 57 non-employees (i) "are included in the 83 hires or whether they are in addition to the 83 hires" and (ii) explain what these individuals did at the Stations and why they were not considered employees;
- (2) Provide for all hires, regardless of the length of employment, the exact date of hire, the title, the 395-B classification, and full or part-time status of the position and the name, race, gender and date of termination of the hiree;
- (3) Explain the status in more detail of the 4 individuals originally listed in the Form 396 as hires during the Reporting Period but

during the License Period, including the names of the hirees, their dates of hire, the titles of their positions, the FCC Form 395-B classification of their positions, the full or part-time status of their positions, the race and gender of the hirees and their dates of termination. (Id. at pp. 5-6.) Exhibit 2 contained a list of the 57 people who were hired during the License Period but who were not considered "employees" of the Stations, including their names, the dates of their hire, the titles of their positions, the FCC Form 395-B classification of their positions, the trainee or temporary status of their position, the race and gender of the individuals and their dates of termination. (Id. at pp. 8-9.) The Third Supplemental Report also clarifies that the 57 "non-employees" are in addition to the 83 hires listed in Exhibit 1. (Id. at p. 3.) The first two pages of text of the Third Supplemental Report were prepared by Susan Marshall. (DBI Ex. 2, pp. 19-20.) The lists included as Exhibits 1 and 2 were prepared by Mr. and Mrs. Bramlett, with the assistance of the computer expertise of the Stations' national sales manager, Mark Goodwin, and were reviewed by Ms. Marshall.

~~The small records attached as Exhibit 2 including handwritten~~

These 57 individuals were not considered by the licensee to be employees of the Stations because either (a) they were hired as independent contractors on a purely temporary or fill-in basis and were not intended to work on a permanent basis, or (b) they were hired on a permanent basis, but were asked to leave their employment after a 60 to 90-day probationary period because they were found not to be qualified for the positions for which they were hired.

It was also noted that the four individuals hired during the Reporting Year but not counted as "employee" new hires on the Form 396, as amended, were listed in Exhibit 2 and were hired on a temporary fill-in basis. (MMB Ex. 11, p. 3.)

86. Footnote 2 on page 1 of the text of the Third Supplemental Report notes, inter alia, that (a) there are some inconsistencies between the number of female new hires and the number of new hires in the Stations' upper level job positions as reflected in the Form 396 for the Reporting Year and as reflected in Exhibit 1 and (b) there are "slight inconsistencies" in the new hires in the License Period as reflected in the January 13 Response and in Exhibit 1. The footnote states that the inconsistencies discussed in clause (a) "are due to the fact that the members of the Stations' staff who prepared the renewal did not prepare the data as carefully as they should." With respect to clause (b), it is further explained that the staff members who prepared the January 13 Response did so based on a manual count of the payroll records. Exhibit 1 represents a computer-assisted compilation of these materials, generating a more accurate list of the new hires. (MMB Ex. 11, p. 2.) The members of the

Stations' staff referred to in this footnote include Mr. Bramlett and his wife. Exhibits 1 and 2 were derived from the handwritten payroll sheets and the 1988 computer print-out and certain canceled checks. (DBI Ex. 1, p. 30.)

87. Prior to the filing of the Third Supplemental Report, Mr. Bramlett carefully reviewed the payroll sheets and the summaries of these lists on pages 5, 6, 8 and 9 of MMB Exhibit 11. He glanced at the balance of the Third Supplemental Report but did not read it carefully. In particular, he did not read footnote 2, page 2 of the Third Supplemental Report -- which repeats the explanation for the discrepancy in the number of hires reported by DBI as originally set forth in Footnote 3 to the Second Supplemental Report -- carefully enough to understand it, if he read it at all. (Tr. 613-615.)

88. By letter dated February 11, 1992, from Ms. Marshall to Mr. Wolfe, DBI submitted revised Exhibits 1 and 2 to the Third Supplemental Report (the "February 11 Response"). (MMB Ex. 12.) The revised Exhibits corrected certain typographical errors and provided additional explanatory information. (Id. at p. 1.)

**9. Mr. Bramlett's Mindset.**

89. Mr. Bramlett has been dealing with the FCC since 1962 when he started work as the Stations' engineer. He testified he has always paid meticulous attention to the Stations' operating parameters to ensure that they complied with the FCC's technical rules. Having dealt with the FCC for 30 years, he is acutely aware of a licensee's responsibility to comply with the

Commission's rules and to be accurate and complete in all submissions to the Commission.

90. Mr. Bramlett retained a respected communications firm to represent DBI before the FCC to ensure that DBI did not run afoul of the FCC's rules. With respect to inquiries from the FCC, he expected his law firm to review each inquiry carefully and to tell him what information he needed to provide in response. He did not feel it was necessary or appropriate to second-guess their interpretation or advice with respect to such inquiries. Throughout this investigative process, he felt secure in the fact that his interests were being protected by counsel. He responded promptly at all times to his counsel's inquiries and instructions, fully and to the best of his ability. In responding to these queries, however, he did not refer back to previous DBI filings to make sure the responses fit together and were consistent. He expected counsel to do that. In hindsight, he realizes he should have reviewed the entire statements prepared for his signature as carefully as he reviewed the facts he had provided. As a bottom line, however, he never knowingly provided inaccurate information or concealed information from the FCC. (DBI Ex. 1, pp. 31-32.)

91. Mr. Bramlett described his preoccupation with countering the NAACP's discrimination charge as follows:

It is hard for me to explain my reaction to the fact that I was being charged with racial discrimination by the NAACP and how it affected me both physically and mentally. I have always treated Blacks just as I would Whites. When growing up, I had Black



friends. I worked with Blacks. I never saw any difference between us. As the years passed, when I saw acts of prejudice, I would do what I could to make things right. I always hired station employees who could do the job, whether Black or White. In the mid-1970's I owned an engineering and manufacturing company and hired a Black as President. As the operator of a successful radio station, I make myself available to other radio people for advice, counsel and information including Blacks such as Nat Tate, Jr., Ricky Patton and Hundley Batts, who is one of the owners of an AM Station in Huntsville. Over the years, I have met regularly with Mr. Batts to consult and review market data with him so that he can better serve clients and increase his business and also advise him as to techniques and approaches to increasing sales. I know there is prejudice in my town just as there is in every town but I comport myself in a way consistent with my beliefs that all people are equal. That is why when I read the charge from the NAACP I became so upset and almost obsessed in my efforts to prove the charge wrong.

(Id. at pp. 33-34.)

**E. Evidence Concerning Mr. Bramlett's Character for Truthfulness.**

92. Six witnesses testified in favor of Mr. Bramlett's character for truthfulness.

**1. Julian D. Butler**

93. Julian D. Butler, a 27-year resident of Huntsville, Alabama, has engaged in the practice of law in Huntsville for those 27 years and is presently a partner in the law firm of Sirote & Permutt, P.C. Mr. Butler is licensed to practice in the State of Alabama, the United States District Court for the Middle and Northern Districts of Alabama, the Fifth and Eleventh Circuit Courts of Appeal and the United States Supreme Court. (DBI Ex. 11, p. 1; Tr. 696.)

94. Mr. Butler has served as County Attorney for Madison County, Alabama, for the past 16 years. He served as Chairman for the Center of Public Law and Service at the University of Alabama and is presently a member of the Chancellor's Public Affairs Advisory Group. Mr. Butler represents America's Counties on the Advisory Board of the State and Local Legal Center in Washington, D.C. He has served as Chairman of the Leadership Huntsville/Madison County Program of the Huntsville/Madison County Chamber of Commerce and in leadership positions with a variety of other civic, charitable and political organizations, including as General Counsel of the Alabama Democratic Party and the Madison County Democratic Party, statewide Chairman of the Unified Democratic Campaign in 1976 and District Chairman for the Boy Scouts on three different occasions. Mr. Butler has been involved in fund drives for the United Way and other charitable organizations, taught Sunday School for 20 years and was a deacon in his church. He has been involved in bar activities, including as a founder and the second chairman of the Environmental Law Section of the Alabama State Bar. (DBI Ex. 11, p. 1; Tr. 694.)

95. Mr. Butler has been acquainted with Mack Bramlett since February, 1988 when he represented DBI in litigation concerning the proposed sale of the Stations. Mr. Butler last did substantive work for DBI a year to a year and a half ago. (DBI Ex. 11, p. 11; Tr. 696, 698.) Mr. Butler has never represented Mr. Bramlett personally. Over a period three years through late 1991, Mr. Butler was in contact with Mr. Bramlett on an average

of at least once a week and has had periodic casual contacts with Mr. Bramlett since then. (Tr. 698-699.)

96. In Mr. Butler's opinion, Mr. Bramlett's honesty and integrity are as high as anyone he has ever dealt with, both personally and professionally. (Tr. 703-704.) Mr. Butler testified that in the course of his representation of DBI, when it would have been to Mr. Bramlett's advantage to shade the truth, Mr. Bramlett never suggested that be done. Mr. Bramlett was always open with the facts, good or bad. (DBI Ex. 11, p. 1.)

In Mr. Butler's words:

If he didn't remember what occurred, he didn't remember what occurred. If something occurred that was adverse to whatever position we were pursuing, he told it that way. He never became, as witnesses sometimes do, advocates in attempting to shape their description of the facts to advocate their position. Whatever he remembered, he remembered. What he didn't remember, he



talks with him more frequently on the telephone. He relies upon Mr. Bramlett as an advisor/mentor. The operation of Mr. Batts' radio station is based upon Mr. Bramlett's philosophy which has been responsible in part for making Station WEUP successful. (DBI Ex. 10, p. 2.)

102. In Mr. Batts' opinion, Mr. Bramlett does not discriminate. He has done more for Black broadcasters in the market than anyone Mr. Batts knows. Mr. Batts testified that Mr. Bramlett had been threatened by the Ku Klux Klan because he did not subscribe to their beliefs. (Id.)

3. B. Lynn Layton

103. The third witness to testify on Mr. Bramlett's behalf was B. Lynn Layton, the sole owner of Lynn Layton Chevrolet in Decatur, Alabama. Mr. Layton is active in various community organizations, including the Rotary Club and was on the Board of the Decatur Chamber of Commerce in the mid-1980's. (DBI Ex. 9, p. 1.)

104. Mr. Layton has known Mr. Bramlett for approximately 10 years. He meets with Mr. Bramlett as many as three or four times a month concerning advertising and promotions on the Stations. According to Mr. Layton, most everybody active in the Decatur community knows Mr. Bramlett. Mr. Bramlett is civic minded; any time there is a community event, he is there donating his Stations' time and services. Mr. Layton has never heard anything but praise for Mr. Bramlett's honesty and integrity. (Id.)

105. Mr. Layton could not think more highly of anyone. In his opinion, Mr. Bramlett is straight up. Mr. Layton has never had a written contract with Mr. Bramlett. If Mr. Bramlett says something, that's the way it is in Mr. Layton's experience. In trade deals, when a product is provided in exchange for future time, it is important to be confident that the radio station will provide the agreed-upon time. Mr. Layton does not trade with any radio stations but Mr. Bramlett's. (Id.)

106. Mr. Layton has been present at various times when Mr. Bramlett's name has come up in conversations. Mr. Bramlett's reputation among civic-minded business people in Decatur is that he is a man you can trust -- he is honest, a man of integrity. (Id. at pp. 1-2.)

**4. Frank Allan Harris**

107. The fourth person to testify on Mr. Bramlett's behalf was Frank Allan Harris, a resident of Old Hickory, Tennessee, and president and sole stockholder of Impact International, a manufacturer of lubricants. Mr. Harris served as deacon of his church for many years and is presently in charge of his church's choir. (DBI Ex. 6, p. 1.)

108. Mr. Harris has known Mr. Bramlett since 1950-1951 when they attended the sixth grade together in Falkville, Alabama, located just south of Decatur, Alabama. He currently sees Mr. Bramlett every month or two while travelling through Decatur and Mr. Bramlett visits Mr. Harris in Nashville. Mr. Harris also talks to Mr. Bramlett frequently on the telephone. (Id.)

109. In Mr. Harris' opinion, Mr. Bramlett is a man whose integrity is absolutely impeccable. He believes Mr. Bramlett is honest and there is not a person in the world other than his father and brother-in-law who have as much integrity. Mr. Harris would trust his life with Mr. Bramlett. Mr. Harris described one incident in ninth grade in support of his opinion. One week the teacher handed out tests which were to be completed and turned in. The next week he returned the tests to each of the students to grade. Some days later he announced to the class that Mr. Bramlett and Mr. Harris were the only students who had honestly graded their papers and had not cheated. Apparently all the other students made sure that they had all the correct answers. Unbeknownst to them, the teacher had graded the papers before he handed them out to the class. Mr. Harris testified that Mr. Bramlett would not cheat then and he knows he would not do that now. He believes Mr. Bramlett has inner strength and beliefs which have stayed with him throughout his life. (Id. at pp. 1-2.)

5. Nat Tate, Sr.

110. The fifth person to testify on Mr. Bramlett's behalf was Nat Tate, Sr., an African-American, who is a current employee of DBI and has been a friend of Mr. Bramlett for more than 28 years. In Mr. Tate's opinion, Mr. Bramlett is truthful and honest. In addition, in the Decatur/ Huntsville radio market and in the Decatur/Huntsville Black community, Mr. Bramlett is looked upon as a man of integrity. (DBI Ex. 19, pp. 1-2.)

**6. Ricky Patton**

111. The final person to testify on Mr. Bramlett's behalf was Ricky Patton, an African-American and a current and former employee of DBI. In Mr. Patton's opinion, based upon his experience with Mr. Bramlett over the last decade, Mr. Bramlett is an honest man. (DBI Ex. 8, pp. 1-2.)

**F. Demeanor of DBI's Witnesses.**

112. The demeanor of DBI's witnesses lent credence to their truthfulness.

**IV. CONCLUSIONS OF LAW**

113. Based upon the foregoing recitation of facts, DBI submits that the Renewal Applications should be granted, subject to the qualifications discussed below.

**A. The Misrepresentation Issue.**

114. The impetus for the specification of the Misrepresentation Issue in the HDO was the fact that DBI represented under penalty of perjury on two separate occasions that the Stations had approximately 20 hires during the License Period when in fact, as was ultimately disclosed by DBI, there had been 104 hires during this period. HDO at paragraph 12. The Commission expressed its concern as follows:

While the accuracy of the contention that the stations had 20 hires during the license term was on its face dubious, the licensee and VP/GM, who had been in charge of the stations' EEO program throughout the entire license term, persisted in this contention when, in fact, there had been 104 hires. Because we must rely on truthful reporting by



our licensees in assessing the success of an EEO program, we are particularly concerned when we find the actual number of hires is over five times greater than the number of hires repeatedly reported. Only after four inquiries did the licensee provide a reply that was seemingly accurate. Even that reply did not contain information regarding the recruitment sources contacted, the interviewee pool composition of each position or the referral source of each hiree as previously requested.

Id.

115. A finding of misrepresentation or lack of candor requires a showing of a motive or intent to deceive. Fox River Broadcasting, 93 FCC 2d 127, 129 [1983] ("Fox River"); Century Cellunet of Jackson MSA Limited Partnership, 6 FCC Rcd 6150 [1991] ("Century Cellunet"); Barry Sidelsky, 7 FCC Rcd 1, 3 (Rev.Bd.1992) ("Sidelsky"); Safe Broadcasting, 6 FCC Rcd 6548, 6550 (Rev.Bd.1991); Montgomery County Media Network, 6 FCC Rcd 7440, 7445 (Rev.Bd.1991) ("MCMN"); Benko Broadcasting, 3 FCC Rcd 6838, 6841 (Chief, Video Svs.Div.1988) ("Benko"); Pinelands, Inc., 7 FCC Rcd 6058, 6065 [1992]. Carelessness, mistakes, inattention to detail or exaggeration, without the necessary element of intent, do not constitute misrepresentation or lack of candor. Fox River, supra; Century Cellunet, supra; MCMN, supra; Benko, supra; Pinelands, Inc., supra.

(1) Misstatement as to Number of Hires.

116. The record in this proceeding reflects carelessness, mistakes and inattention to detail, but there is absolutely no evidence of an intent to deceive or, indeed, of a motive to